HONOURABLE SRI JUSTICE P. NAVEEN RAO

REVIEW C.M.A.M.P.No.1658 OF 2013

IN

C.M.A.No.3657 OF 2002

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Date: 26.12.2013

Between :

Sri Khaja Pasha and another

… Review Petitioners/appellants

and

Sri G.Rajesh and another.

… Respondents

The Court made the following:

HONOURABLE SRI JUSTICE P. NAVEEN RAO

REVIEW C.M.A.M.P.NO.1658 OF 2013

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C.M.A.NO.3657 OF 2002

ORDER:

This petition is filed praying to review the order in C.M.A.No.3637 of 2002, dated 24.04.2013.

2. Learned counsel for the petitioners contend that Section 4A(3) of the Workmen's Compensation Act, 1923 (for short, 'the Act') mandates payment of interest if there is delay in paying the compensation by the employer/insurer company to the workmen. Thus, petitioners are entitled to interest on the delayed payment of compensation and this Court erred in not awarding interest on the amounts quantified by the Commissioner and enhanced by this Court. Learned counsel placed reliance on the decision of the Supreme Court in the case of **the Oriental Insurance Company Limited vs. Siby George and others**[1].

3. Khaja Fiayaz alias Gayasuddin was working as Cleaner on motor transport vehicle bearing registration No.AP-13-T-5877, owned by the 1st respondent. He died in a motor accident while on duty in the service of the 1st respondent. The employer did not pay the compensation to the dependents of the deceased. The father and mother of the deceased filed W.C.No.19 of 1999 before the Commissioner for Workmen's Compensation, Ranga Reddy District and Assistant Commissioner of Labour, Circle-II, Ranga Reddy District, claiming compensation of Rs.2,50,000/-. By Order dated 18.02.2002, the Commissioner declared the deceased as workman in the service of first Opposite Party and determined the compensation payable as Rs.1,45,554/-. The order of the Commissioner is silent on the interest payable to the petitioners. Not satisfied with the amount quantified, claimants filed C.M.A.No.3657 of 2002. Claim of interest is not raised in the grounds of appeal and during the course of hearing.

Thus, this issue was not dealt with while rendering the decision in C.M.A. This Court by Order, dated 24.04.2013 allowed the C.M.A. enhancing the compensation to the petitioners to Rs.2,24,000/- as against the compensation of Rs.1,45,554/- awarded by the Commissioner.

4. As per Section 4A(1) of the Employees' Compensation Act, 1923, compensation should be paid as soon as it falls due. Sub-section 3(a) of the Act, mandates that in case employer is in default in paying the compensation due within one month from the date it fell due, the Commissioner shall in addition to the amount of the arrears, order to pay simple interest thereon at the rate of twelve percent per annum.

5. In **Oriental Insurance Co. Ltd., Vs. Siby George and others,** Supreme Court held that compensation falls due on the date of accident and if compensation is not paid within one month, claimants are also entitled to interest from the date of accident. It is held as under:

> "… on a plain reading of the provisions of sub-section (3) it becomes clear that payment of interest is a consequence of default in payment without going into the reasons for the delay and it is only in case where the delayis without justification, the employer might also be held liable to penalty after giving him a show cause. Therefore, a finding to the effect that the delay in payment of the amount due was unjustified is required to be recorded only in case of imposition of penalty and no such finding is required in case o f **interest which is to be levied on default per se**. (emphasis supplied)

6. The Commissioner for workmen compensation held that the deceased is employee of 1st respondent and the accident resulting in death of employee was during the course of employment. That being so, employer ought to have paid compensation immediately. There is

delay in payment of compensation. For the period of delay, claimants are entitled to interest at the rate of 12% per annum. The Commissioner erred in not ordering payment of interest while disposing of the C.M.A.

7. Employees Compensation Act is a beneficial legislation coming to the aid of less privileged employees/their dependents in the matter of compensating them on account of untimely demise of their breadwinner. Delay in settlement of compensation causes untold misery and hardship to the family. Thus, legislature stipulated payment of interest if compensation is not settled immediately on occurring of the accident. The legal consequence which flow out of Section 4A(1) of the Act is, awarding of interest on delayed payment of compensation once compensation determined is not paid within one month of the accident. The legislative intent is very clear and, therefore, having seen the position clearly, it is but fit and proper that this court should give effect to the clear intention of the legislature. Not incorporating interest payable on the compensation awarded for the period of delay in the order constitutes error. In the interest of justice, this deserves to be corrected.

8. In view of the above, review petition is allowed. It is ordered that the petitioners are entitled to interest at the rate of 12% per annum on the compensation amount of Rs.2,24,000/- from the date of accident. No costs.

Miscellaneous petitions pending, if any, in this review petition shall stand closed.

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JUSTICE P.NAVEEN RAO

Date: 26.12.2013
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Oval:

HON'BLE SRI JUSTICE P.NAVEEN RAO

REVIEW C.M.A.M.P.No.1658 OF 2013
IN
C.M.A.No.3657 OF 2002

Date: -12-2013

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It is imperative to allow the review petition and to hold that petitioners are entitled to interest at the rate of twelve percent per annum on the amount of compensation determined by this Court in C.M.A.No.3637 of 2002 from the date of the accident i..e, 10.09.1998, till the date of payment.

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[1] 2012 (7) Scale 86